

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION

ADRIAN HOYLE,

Plaintiff,

vs.

CAUSE NO.: 3:21-cv-171NBB-RP
JURY DEMANDED

CITY OF HERNANDO, SCOTT WORSHAM,
in his official capacity as Chief of Police of the
Hernando Police Department, OFFICER
LYNN BROWN, Individually and in his
official capacity as a Hernando Police Officer,
and OFFICER HUNTER SOLOMON, Individually
and in his official capacity as a Hernando Police Officer

Defendants.

PLAINTIFF, ADRIAN HOYLE'S, MEMORANDUM OF LAW AND FACTS IN SUPPORT
OF MOTION TO LIFT STAY

COMES NOW, Plaintiff, Adrian Hoyle (hereinafter Plaintiff) by and through counsel,
and files this his Memorandum of Law and Facts in Support of his Motion to Lift Stay pursuant
to Rule 16(b)(3)(B) of the Uniform Local Rules of the United States District Court for the
Northern and Southern Districts of Mississippi to lift the stay of discovery and in support of
same would state as follows:

PROCEDURAL HISTORY AND FACTS

1. On September 14, 2021, Municipal Defendants filed a Motion for Judgment on
the Pleadings or, in the Alternative, for Summary Judgment and a Memorandum in support of
same. (Doc. Nos. 12 & 13).

2. The Plaintiff filed his Response and Memorandum in support of his Response on October 7, 2021. (Doc. Nos. 25 & 26), and in further support thereof, Plaintiff filed the Affidavit of Jared Zwickey (Doc No. 27) and the Affidavit of Plaintiff, Adrian Hoyle (Doc. No. 28).

3. Within his Response to Defendants' Motion for Judgment on the Pleadings, or in the Alternative, Summary Judgment, Plaintiff referenced the fact that no discovery had been obtained or sought pursuant to Rule 16(b)(3)(B) of the Uniform Local Rules of the United States District Court for the Northern and Southern Districts of Mississippi, and the Order Staying Case entered by the Magistrate herein on September 15, 2021. (Doc No. 15)

4. It is Plaintiff's position that based upon the Defendants' filing itself as well as the exhibits filed by the Defendants in their Motion for Judgment on the Pleadings or, in the Alternative, for Summary Judgment, more than adequate facts exist to deny, out of hand, the Motion for Judgment on the Pleadings or, in the Alternative, for Summary Judgment and remove qualified immunity for Officer Lynn Brown and Officer Hunter Solomon, the individual officer defendants, herein.

5. However, as it relates to claims of failure to train, failure to supervise and the defense of qualified immunity, the Plaintiff herein prays that this Honorable Court lift the stay and permit Plaintiff limited discovery to explore the areas contained in the Municipal Defendants' Motion for Judgment on the Pleadings or, in the Alternative, for Summary Judgment regarding qualified immunity.

6. It is the contention of the Plaintiff that the vicious attacks by Lynn Brown and Hunter Solomon upon Plaintiff as depicted in the video attached to Defendants' pleadings is sufficient to defeat the pending qualified immunity motions, but out of an abundance of caution, in order to completely defeat qualified immunity for both officers, discovery is necessary. (See

police report of Lynn Brown where Lynn Brown states “He had his hands up . . .” (Doc. No. 10-4).

CITATION OF AUTHORITIES

Rule 16(b)(3)(B) of the Uniform Local Rules of the United States District Court for the Northern and Southern Districts of Mississippi states:

Filing a motion to compel arbitration, or a motion asserting an immunity defense or jurisdictional defense stays the attorney conference and disclosure requirements and all discovery, pending the court's ruling on the motion, including any appeal. **Whether to permit discovery on issues related to the motion and whether to permit any portion of the case to proceed pending resolution of the motion are decisions committed to the discretion of the court, upon a motion by any party seeking relief.**

Therefore, Plaintiff respectfully requests that this Honorable Court lift the stay and permit limited discovery to explore the areas contained in Defendants’ Motion for Judgment on the Pleadings or, in the Alternative, for Summary Judgment regarding qualified immunity.

Respectfully Submitted,

SPARKMAN-ZUMMACH, P.C.

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Certificate of Service

The undersigned certifies that on the 4th day of November , 2021, a copy of the foregoing document was electronically filed with court clerk using the CM/ECF System which sent notification of such filing to all counsel of record.

S/Martin Zummach